

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CASEY CUNNINGHAM et al.,

Plaintiffs,

v.

CORNELL UNIVERSITY et al.,

Defendants.

Civil Action No. 1:16-cv-6525-PKC

Hon. P. Kevin Castel

DECLARATION OF SAMUEL P. MYLER

I, Samuel P. Myler, submit this declaration in support of the motion for summary judgment filed by defendants Cornell University, the Retirement Plan Oversight Committee, and Mary G. Opperman (“the Cornell Defendants”). I have personal knowledge of the facts set forth herein, except where otherwise noted, and would testify to such facts if called as a witness.

1. Attached hereto as **Exhibit 1** is a true and correct copy of the Corrected Amended Complaint (ECF. 81) filed in this action.

2. Attached hereto as **Exhibit 2** is a true and correct copy of the Memorandum and Order Granting in Part and Denying in Part Defendants’ Motion to Dismiss (ECF. 107) entered in this action.

3. Attached hereto as **Exhibit 3** is a true and correct copy of the 2008 CURP Adoption Agreement (CORNELL015512) produced by the Cornell Defendants in response to Plaintiffs’ discovery requests in this case.

4. Attached hereto as **Exhibit 4** is a true and correct copy of the 2008 CURP Basic Plan Document (CORNELL015526) produced by the Cornell Defendants in response to Plaintiffs’ discovery requests in this case.

5. Attached hereto as **Exhibit 5** is a true and correct copy of the 2008 TDA Plan Adoption Agreement (CORNELL015527) produced by the Cornell Defendants in response to Plaintiffs' discovery requests in this case.

6. Attached hereto as **Exhibit 6** is a true and correct copy of the 2008 TDA Plan Document (CORNELL015535) produced by the Cornell Defendants in response to Plaintiffs' discovery requests in this case.

7. Attached hereto as **Exhibit 7** is a true and correct copy of the 2011 Advisory Council on Employee Welfare and Pension Benefit Plans Report to the Honorable Hilda L. Solis, United States Secretary of Labor, *Current Challenges and Best Practices for ERISA Compliance for 403(b) Plan Sponsors* (Nov. 2011), which is publicly available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/about-us/erisa-advisory-council/2011-current-challenges-and-best-practices-for-erisa-compliance-for-403b-plan-sponsors.pdf>.

8. Attached hereto as **Exhibit 8** is a true and correct copy of Department of Labor Field Assistance Bulletin 2009-02, which is publicly available at <https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2009-02>.

9. Attached hereto as **Exhibit 9** is a true and correct copy of the 2013 ICI/Brightscope Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans, 2013, which is publicly available at https://www.ici.org/pdf/ppr_16_dcplan_profile_403b.pdf.

10. Attached hereto as **Exhibit 10** is a true and correct copy of the 2016 Form 5500 Annual Report for the Cornell University Retirement Plan.

11. Attached hereto as **Exhibit 11** is a true and correct copy of the 2016 Form 5500 Annual Report for the Tax-Deferred Annuity Plan.

12. Attached hereto as **Exhibit 12** is a true and correct copy of the 2012 Form 5500 Annual Report for the Cornell University Retirement Plan.

13. Attached hereto as **Exhibit 13** is a true and correct copy of the 2012 Form 5500 Annual Report for the Tax-Deferred Annuity Plan.

14. Attached hereto as **Exhibit 14** is a true and correct copy of the July 2017 TDA Plan Summary and Investment Notice (TIAA_CORNELL_00020211) produced by third party TIAA-CREF in response to discovery requests served by Plaintiffs.

15. Attached hereto as **Exhibit 15** is a true and correct copy of the July 2017 CURP Plan Summary and Investment Notice (TIAA_CORNELL_00044502) produced by third party TIAA-CREF in response to discovery requests served by Plaintiffs.

16. Attached hereto as **Exhibit 16** is a true and correct copy of the Declaration of Paul Bursic submitted in support of the Cornell Defendants' Motion for Summary Judgment.

17. Attached hereto as **Exhibit 17** is a true and correct copy of the April 2011 Retirement Plan Oversight Committee Charter produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

18. Attached hereto as **Exhibit 18** are relevant excerpts from the August 2, 2018 sworn deposition of Mary G. Opperman.

19. Attached hereto as **Exhibit 19** is a true and correct copy of the November 29, 2010 RPOC Meeting Minutes introduced as Exhibit 49 at the Deposition of A.J. Edwards.

20. Attached hereto as **Exhibit 20** is a true and correct copy of the April 2011 Plan Consultant Request for Proposal introduced as Exhibit 98 at the Deposition of Edward Walsh.

21. Attached hereto as **Exhibit 21** is a true and correct copy of the April 2011 Retirement Plan Advisory Services Agreement between Capfinancial Partners, LLC ("CAPTRUST")

and Cornell University produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

22. Attached hereto as **Exhibit 22** is a true and correct copy of an excerpt from the 2016 Plansponsor 403(b) Recordkeeping Survey, which is publicly available at <https://www.plansponsor.com/research/2016-recordkeeping-survey/7/>.

23. Attached hereto as **Exhibit 23** is a true and copy of the Expert Report of Glenn Poehler (with all accompanying exhibits) prepared on behalf of the Cornell Defendants.

24. Attached hereto as **Exhibit 24** is a true and correct copy of the TIAA/Cornell Recordkeeping Agreement (and amendments thereto), which is a compilation exhibit introduced as Exhibit 84 at the Deposition of Mary G. Opperman.

25. Attached hereto as **Exhibit 25** is a true and correct copy of the Fidelity/Cornell Recordkeeping Agreement (and amendments thereto), which is a compilation exhibit introduced as Exhibit 67 at the Deposition of Edward Walsh.

26. Attached hereto as **Exhibit 26** is a true and correct copy of the 2012 TIAA Service & Fee Disclosure Package produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

27. Attached hereto as **Exhibit 27** is a true and correct copy of the 2014 TIAA/Cornell Year in Review (and accompanying email) produced by third party TIAA-CREF in response to Plaintiffs' discovery requests.

28. Attached hereto as **Exhibit 28** is a true and correct copy of the 2016 TIAA "Making the Most of Your Retirement Plan" Presentation produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

29. Attached hereto as **Exhibit 29** are relevant excerpts from the August 10, 2018 sworn deposition of TIAA representative Adam Polacek.

30. Attached hereto as **Exhibit 30** is the Declaration of Douglas Chittenden submitted as his direct testimony in *Sacerdote v. New York University*, 16-cv-6284 (S.D.N.Y.) (ECF No. 272-24) and introduced as Exhibit 262 at the Deposition of Al Otto in this case.

31. Attached hereto as **Exhibit 31** is a true and correct copy of the 2016 Fidelity Master Recordkeeper Presentation (CORNELL021851) provided to Cornell by Fidelity and produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

32. Attached hereto as **Exhibit 32** is a true and correct copy of a March 3, 2016 Email between Jim Strodel of CAPTRUST and Mary Zielinski regarding Master Recordkeeping (CAPTR_0005385) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests.

33. Attached hereto as **Exhibit 33** is a true and correct copy of the 2011 Fidelity "Fee Disclosure and Higher Ed Trends" Presentation (CORNELL021679) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

34. Attached hereto as **Exhibit 34** is a true and correct copy of the 2017 PSCA "Fee Structure and Evaluation in 403(b) Plans" Report cited in the Expert Report of Glenn Poehler (Exhibit 23) and publicly available at https://www.psc.org/403b_2017_snapshot.

35. Attached hereto as **Exhibit 35** are relevant excerpts from the July 20, 2018 sworn deposition of Fidelity Management Trust Company LLP representative Patrick Warner.

36. Attached hereto as **Exhibit 36** are relevant excerpts from the August 9, 2018 sworn deposition of James Strodel.

37. Attached hereto as **Exhibit 37** is a true and correct copy of the 2009 TDA Plan Investment Fee & Expense Disclosure (TIAA_CORNELL00004094) produced by third party TIAA in response to Plaintiffs' discovery requests.

38. Attached hereto as **Exhibit 38** is a true and correct copy of the 2009 CURP Investment Fee & Expense Disclosure (TIAA_CORNELL_00011306) produced by third party TIAA in response to Plaintiffs' discovery requests.

39. Attached hereto as **Exhibit 39** is a true and correct copy of the 2014 CREF Multi-Class Structure Presentation (CORNELL023646) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

40. Attached hereto as **Exhibit 40** is a true and correct copy of the 2015 TIAA Business Planning Presentation (CORNELL006362) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

41. Attached hereto as **Exhibit 41** are relevant excerpts from the July 13, 2018 sworn deposition of Paul Bursic.

42. Attached hereto as **Exhibit 42** is a true and correct copy of the 2010 Johns Hopkins 403(b) Plan Design Presentation (CORNELL029094) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

43. Attached hereto as **Exhibit 43** is a true and correct copy of the January 2012 RPOC Meeting Materials (CAPTR_0009067) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests.

44. Attached hereto as **Exhibit 44** is a true and correct copy of the January 2012 RPOC Meeting Minutes (CAPTR_0047903) produced by defendant CAPTRUST in response to

Plaintiffs' discovery requests and introduced as Exhibit 54 at the deposition of Joanne DeStefano.

45. Attached hereto as **Exhibit 45** is a true and correct copy of the July 2012 RPOC Meeting Minutes (CAPTR_0047911) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests and introduced as Exhibit 55 at the deposition of Joanne DeStefano.

46. Attached hereto as **Exhibit 46** are relevant excerpts from the October 10, 2018 sworn deposition of Al Otto.

47. Attached hereto as **Exhibit 47** is a true and correct copy of the February 2013 Pepperdine Administrative Committee Meeting minutes, which were introduced as Exhibit 263 at the October 10, 2018 deposition of Al Otto and are publicly available at https://www.trsretire.com/webportal/pepperdine/page.html?page_0.

48. Attached hereto as **Exhibit 48** is a true and correct copy of the Declaration of Scott Matheson served in this case on September 14, 2018.

49. Attached hereto as **Exhibit 49** is a true and correct copy of the April 2012 RPOC Meeting Materials (CORNELL022014) produced by the Cornell Defendants in response to Plaintiffs' discovery requests and introduced as deposition exhibit 7 at the deposition of Paul Bursic.

50. Attached hereto as **Exhibit 50** is a true and correct copy of the April 2012 RPOC Meeting Minutes (CAPTR_0047907) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests and introduced as deposition exhibit 122 at the deposition of Mary G. Opperman.

51. Attached hereto as **Exhibit 51** is a true and correct copy of the Declaration of Jim Strodel served in this case on September 14, 2018.

52. Attached hereto as **Exhibit 52** are relevant excerpts from the August 10, 2018 sworn deposition of Barry Schmitt.

53. Attached hereto as **Exhibit 53** is a true and correct copy of the Deloitte 2015 Annual Defined Contribution Benchmarking Survey cited in the expert report of Glenn Poehler and publicly available at <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/human-capital/us-hc-annual-defined-benchmarking-survey-2015.pdf>.

54. Attached hereto as **Exhibit 54** is a true and correct copy of the 2017 Vendor Fee Benchmarking Presentation (CAPTR_0046963) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests.

55. Attached hereto as **Exhibit 55** is a true and correct copy of the 2016 TIAA Revenue Requirement Summary (TIAA_CORNELL_00041890) produced by third party TIAA-CREF in response to Plaintiffs' discovery requests and introduced at the deposition of Patrick Weber as deposition exhibit 148.

56. Attached hereto as **Exhibit 56** is a true and correct copy of the 2012 TIAA Revenue Requirement Summary (CORNELL024262) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

57. Attached hereto as **Exhibit 57** is a true and correct copy of the TIAA Side-by-Side Comparison of Cornell/Weill Services (CORNELL021554) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

58. Attached hereto as **Exhibit 58** is a true and correct copy of the March 2016 RPOC Meeting Minutes (CAPTR_0013568) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests and introduced as exhibit 30 at the deposition of Patrick Gallagher.

59. Attached hereto as **Exhibit 59** is a true and correct copy of the September 7, 2010 Email and Attachment from Patrick Warner to Paul Bursic regarding availability of lower cost K Shares (CORNELL021638) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

60. Attached hereto as **Exhibit 60** is a true and correct copy of the December 2010 Vanguard Signal Share Class Conversion Letter-of-Direction (CORNELL021662) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

61. Attached hereto as **Exhibit 61** is a true and correct copy of the May 2011 Letter-of-Direction for Spartan Share Class Replacement (CORNELL025524) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

62. Attached hereto as **Exhibit 62** is a true and correct copy of the October 2011 Fidelity Letter of Direction for Spartan Share Class Replace (CORNELL021736) produced by the Cornell Defendants in response to Plaintiffs' discovery requests.

63. Attached hereto as **Exhibit 63** is a true and correct copy of the December 2014 RPOC Meeting Minutes (CAPTR_0013586) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests and introduced as exhibit 63 at the deposition of Joanne DeStefano.

64. Attached hereto as **Exhibit 64** is a true and correct copy of the expert report of Marcia Wagner, Esq. submitted in support of defendant New York University's motion for summary judgment in *Sacerdote v. New York University*, 16-cv-6284 (S.D.N.Y.) (ECF No. 258-4).

65. Attached hereto as **Exhibit 65** is a true and correct copy of the 2012 Columbia Fee Proposal (CORNELL029338) provided to Columbia University by TIAA and produced by the Cornell Defendants.

66. Attached hereto as **Exhibit 66** is a true and correct copy of the CAPTRUST Required Revenue Spreadsheet (CAPTR_0022939) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests and introduced as deposition exhibit 300 at the deposition of Glenn Poehler.

67. Attached hereto as **Exhibit 67** is a true and correct copy of the CAPTRUST TIAA Clients and Fees Spreadsheet dated May 2017 (CAPTR_0045957) produced by defendant CAPTRUST in response to Plaintiffs' discovery requests.

68. Attached hereto as **Exhibit 68** is a true and correct copy of the TIAA Top-200 Client Fee Data Spreadsheet (CORNELL029335) produced by the Cornell Defendants and cited in the Expert Report of Glenn Poehler.

69. Attached hereto as **Exhibit 69** is a true and correct copy of the opinion and order entering judgment on behalf of Defendants in *Sacerdote v. New York University*, 16-cv-6284 (S.D.N.Y.) (ECF No. 348).

70. Attached hereto as **Exhibit 70** is a true and correct copy of a June 9, 2015 email from Barry Schmitt to Jim Strodel regarding Fidelity fees paid by Cornell produced by defendant CAPTRUST in response to Plaintiffs' discovery requests and cited in the Expert Report of Glenn Poehler.

71. Attached hereto as **Exhibit 71** is a true and correct copy of a "2017 Value Deck Prepared for Cornell University by Fidelity" produced by the Cornell Defendants (CORNELL029333) and cited in the Expert Report of Glenn Poehler.

72. Attached hereto as **Exhibit 72** are relevant excerpts from the October 3, 2018 sworn deposition of Ty Minnich.

73. Attached hereto as **Exhibit 73** is a true and correct copy of a “2012 Fidelity Investment Review” produced by defendant CAPTRUST (CAPTR_0038109) in response to Plaintiffs’ discovery requests.

74. Attached hereto as **Exhibit 74** is a true and correct copy of an “April 12, 2012 AJ Edwards email providing comments on IPS draft” produced by the Cornell Defendants (CORNELL029202) in response to Plaintiffs’ discovery requests.

75. Attached hereto as **Exhibit 75** is a true and correct copy of the “November 2012 RPOC Meeting Minutes” produced by defendant CAPTRUST (CAPTR_047924) in response to Plaintiffs’ discovery requests and introduced as deposition exhibit 56 at the Deposition of Joanne Destefano.

76. Attached hereto as **Exhibit 76** is a true and correct copy of the “RPOC Investment Policy Statement” produced by the Cornell Defendant in response to Plaintiffs’ discovery requests and introduced as deposition exhibit 2 and the Deposition of Paul Bursic.

77. Attached hereto as **Exhibit 77** is a true and correct copy of a “June 17, 2012 Hass/Schwarz Email Regarding Formation of Faculty Advisory Committee” produced by the Cornell Defendants in response to Plaintiffs’ discovery requests.

78. Attached hereto as **Exhibit 78** is a true and correct copy of the “September 2013 RPOC Meeting Minutes” produced by defendant CAPTRUST (CAPTR_047918) in response to Plaintiffs’ discovery requests and introduced as deposition exhibit 17 at the Deposition of Patrick Gallagher.

79. Attached hereto as **Exhibit 79** is a true and correct copy of the “September 2015 RPOC Meeting Materials” produced by the Cornell Defendants (CORNELL020930) in response to Plaintiffs’ discovery requests.

80. Attached hereto as **Exhibit 80** is a true and correct copy of the “December 2016 RPOC Meeting Minutes” produced by defendant CAPTRUST (CAPTR_0013590) in response to Plaintiffs’ discovery requests and introduced as deposition exhibit 116 at the Deposition of Paul Streeter.

81. Attached hereto as **Exhibit 81** is a true and correct copy of the “2016 TIAA CREF Prospectus” produced by third party TIAA-CREF in response to Plaintiffs’ discovery requests.

82. Attached hereto as **Exhibit 82** is a true and correct copy of the “TIAA and CREF Contract Comparison,” which is publicly available at https://www.tiaa.org/public/pdf/RC_ComparisonGrid_8_fin.pdf.

83. Attached hereto as **Exhibit 83** is a true and correct copy of the “2011 CREF Prospective” produced by third party TIAA-CREF (TIAA_CORNELL_00021950) in response to Plaintiffs’ discovery requests.

84. Attached hereto as **Exhibit 84** is a true and correct copy of the Russell U.S. Equity Index Methodology *available at* <https://www.ftse.com/products/downloads/Russell-US-indexes.pdf?490>.

85. Attached hereto as **Exhibit 85** is a true and correct copy of the MSCI ACWI Ex-USA IMI Index Fact Sheet *available at* <https://www.msci.com/documents/10199/f24204d8-3fba-46b7-95e7-5b7dcc44536c>.

86. Attached hereto as **Exhibit 86** is a true and correct copy of the Expert Report of John Chalmers, Ph.D. on behalf of the Cornell Defendants served on Plaintiffs on September 14, 2018.

87. Attached hereto as **Exhibit 87** is a true and correct copy of the 2012 TIAA Form 5500 TDA Plan Reportable – Schedule of Assets produced by third party TIAA-CREF (TIAA_CORNELL_00004332) in response to Plaintiffs’ discovery requests.

88. Attached hereto as **Exhibit 88** is a true and correct copy of the 2012 TIAA Form 5500 CURP Reportable – Schedule of Assets produced by third party TIAA-CREF (TIAA_CORNELL_00013494) in response to Plaintiffs’ discovery requests.

89. Attached hereto as **Exhibit 89** is a true and correct copy of the 2018 CREF Stock Fund Fact Sheet, which is publicly available at <https://www.tiaa.org/public/pdf/ffs/194408126.pdf>.

90. Attached hereto as **Exhibit 90** is a true and correct copy of the July 2013 RPOC Meeting Presentation produced by the Cornell Defendants (CORNELL020122) in response to Plaintiffs’ discovery requests and introduced as deposition exhibit 13 at the Deposition of Paul Bursic.

91. Attached hereto as **Exhibit 91** is a true and correct copy of the September 2012 Faculty Advisory Committee Review of Proposed Core Fund Lineup produced by the Cornell Defendants (CORNELL020055) produced by the Cornell Defendants in response to Plaintiffs’ discovery requests.

92. Attached hereto as **Exhibit 92** is a true and correct copy of the September 2014 RPOC Meeting Presentation produced by the Cornell Defendants (CORNELL013567) in response to Plaintiffs’ discovery requests and introduced as deposition exhibit 22 at the deposition of Patrick Gallagher.

93. Attached hereto as **Exhibit 93** is a true and correct copy of the December 2014 RPOC Meeting Presentation produced by the Cornell Defendants (CORNELL015004) in response to Plaintiffs' discovery requests and introduced as deposition exhibit 88 at the Deposition of Mary G. Opperman.

94. Attached hereto as **Exhibit 94** is a true and correct copy of the June 2015 RPOC Meeting Presentation produced by the Cornell Defendants (CORNELL013289) in response to Plaintiffs' discovery requests and introduced as deposition exhibit 37 at the Deposition of Mary G. Opperman.

95. Attached hereto as **Exhibit 95** is a true and correct copy of the December 2015 RPOC Meeting Presentation produced by defendant CAPTRUST (CAPTR_0005242) in response to Plaintiffs' discovery requests and introduced as deposition exhibit 126 at the Deposition of Mary G. Opperman.

96. Attached hereto as **Exhibit 96** is a true and correct copy of the June 2016 RPOC Meeting Presentation produced by the Cornell Defendants (CORNELL013413) in response to Plaintiffs' discovery requests.

97. Attached hereto as **Exhibit 97** is a true and correct copy of the March 2016 RPOC Meeting Presentation produced by the Cornell Defendants (CORNELL011361) produced by the Cornell Defendants and introduced as an exhibit at the Deposition of Patrick Gallagher.

98. Attached hereto as **Exhibit 98** is a true and correct copy of the September 2016 RPOC Meeting Presentation produced by defendant CAPTRUST (CAPTR_0006755) in response to Plaintiffs' discovery requests.

99. Attached hereto as **Exhibit 99** is a true and correct copy of the December 2014 Core Fund “Full Review” produced by defendant CAPTRUST (CAPTR_0007213) in response to Plaintiffs discovery requests.

100. Attached hereto as **Exhibit 100** is a true and correct copy of the 2016 TIAA Real Estate Account Prospectus produced by third party TIAA-CREF in response to Plaintiffs’ discovery requests (TIAA_CORNELL_00024926)

101. Attached hereto as **Exhibit 101** is a true and correct copy of the TIAA Real Estate Account Fact Sheet publicly *available at* <https://www.tiaa.org/public/pdf/ffs/878094200.pdf>.

102. Attached hereto as **Exhibit 102** is a true and correct copy of the TIAA Real Estate Account Frequently Asked Questions Document produced by third party TIAA-CREF in response to Plaintiffs’ discovery requests (TIAA_CORNELL_00027569).

103. Attached hereto as **Exhibit 103** is a true and correct copy of the 2015 TDA Plan TIAA Fund Usage and Diversification Report produced by third party TIAA-CREF (TIAA_CORNELL_00007284)

104. Attached hereto as **Exhibit 104** is a true and correct copy of the 2015 CURP Fund Usage and Diversification Report produced by third party TIAA-CREF (TIAA_CORNELL_00016355).

105. Attached hereto as **Exhibit 105** is a true and correct copy of the October 16, 2018 Deposition of Wendy Dominguez.

106. Attached hereto as **Exhibit 106** is a true and correct copy of the Expert Report of Wendy Dominguez.

107. Attached hereto as **Exhibit 107** is a true and correct copy of the Expert Report of Al Otto.

108. Attached hereto as **Exhibit 108** is a true and correct copy of the Expert Report of Ty Minnich.

109. Attached hereto as **Exhibit 109** is a true and correct copy of the Declaration of Erich Podzinski served on September 17, 2019.

110. Attached hereto as **Exhibit 110** is a document entitled “From the Desk of Al Otto,” which was introduced as deposition exhibit 254 at the Deposition of Al Otto.

111. Attached hereto as **Exhibit 111** is a document entitled “3Q2018 Portfolio Review” prepared by Innovest and Wendy Dominguez and produced by University of Colorado in response to request from Brian Netter. *See* Netter Declaration in Support of Motion to Exclude Expert Wendy Dominguez.

112. Attached hereto as **Exhibit 112** is the Declaration of Douglas Chittenden submitted in support of the Cornell Defendants’ Motion for Summary Judgment in this case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 25, 2019

/s/ Samuel P. Myler

Samuel P. Myler